

he would be sentenced to death by drowning. In the nineteenth century a heavy fine of 200 oxen and immediate separation were insisted upon instead.⁹

The penalty for raping a boy before puberty is death. Of course, such cases of perversion are very rare.¹⁰ Likewise extremely rare are cases of homosexuality and bestiality,¹¹ except among certain Cherkess horse-breeders among whom bestiality is more common and the penalty trivial or none at all.¹²

The *adats* have evidently gone through a distinct evolution, from unusual severity imposed exclusively on the adulteress to a more moderate form of punishment affecting both partners. Dubois de Montpéreux observed how a husband, who would clip his wife's hair for adultery, then cut off her ear, arm, or nose and finally kill her, fully in accord with ancient *adats*,¹³ would thereby become a blood-enemy of his wife's relatives. He therefore usually preferred to divorce her instead¹⁴ and have the *kalym* refunded.¹⁵ Vasil'kov reported in the beginning of this century that among the Temirgoi illicit intercourse was extremely rare and that both partners would be punished very severely. If caught in the act, they would be buried up to their necks and then stoned to death.¹⁶

The NORTHEASTERN CAUCASIANS. The Chechen customary law likewise imposes very severe penalties for adultery, as the following table clearly shows (Table No. 19).

The most serious sex offenses are those of rape and incest. If an Ingush woman (married or single) is raped, the attacker may be killed on the spot. If he manages to escape, a bitter blood-feud breaks out between the sibs of the offended and offender. In *adat* courts confession of the culprit or the accusation of the victim are considered undeniable evidence. The accused can prove himself not guilty by taking an oath, which must then be confirmed by the statements of five conjurers,¹⁷ two of whom must be relatives. If the defendant hesitates to take the oath or fails to find sufficient conjurers who are convinced of his innocence (and hence who are not afraid of the supernatural sanction attached to such an oath), he must pay a fine of 24 cows if the victim happened to be a married woman,¹⁸ and a horse worth 30 silver rubles, a ram and four kettles of *arrack* if she happened to be unmarried.¹⁹ The ravisher, as usual, must marry the girl he attacked.²⁰ If the girl has already been engaged to someone,

⁹ McLennan, *Studies in Ancient History*, p. 76.

¹⁰ At least in Kabardia, according to Grabovskij, *op. cit.*, p. 43.

¹¹ *ibid.*

¹² Grabovskij, *op. cit.*, p. 44.

¹³ Amputation of the adulteress' ears and nose is a punishment found throughout the Caucasus; today, of course, it is rare. It is indeed interesting to note that a Hittite code (about 1350 B. C.) engraved on a stele has been dug up, which legalized such mutilation in case of adultery (cf. H. C. E. Zacharias, *Protohistory*, p. 258).

¹⁴ Dubois de Montpéreux, *Voyage autour du Caucase*, I, p. 132.

¹⁵ Dubrovin, *l. c.*

¹⁶ "Očerĭ byta Termirgoevcev," SMOMPK, XXIX (1901), No. 1, p. 102.

¹⁷ For the institution of *conjury* see above, pp. 155 f.

¹⁸ Leontovič, II, p. 172, §§ 140, 142.

¹⁹ Leontovič, II, p. 172, § 144.

²⁰ Leontovič, II, p. 120, § 24. Other *adat* collections claim the very opposite, cf. Leontovič, II, p. 172, § 147.

If we now pass on to the Lesghian peoples we shall learn that each province, (84) each district, and even each village has its own customary laws, but the differences are only accidental. Everywhere the *adats* agree at least in one point—in their severity. Death or its equivalent for any sex crime is the general rule.

To avoid useless repetitions and to facilitate comparison we present the Daghestanian *adats* in form of a table (Table 20).

Homosexual rape is doubtless a rare crime among these mountaineers, but laws referring to these offenses are a great help in interpreting the sanctions against sexual transgressions. If homosexual rape is punished as severely as natural rape, we have indubitable evidence that sexual taboos do not exist exclusively to safeguard the integrity of the hymen and to prevent bastard births, as one might perhaps be inclined to think from what we have said about virginal integrity.²³ We suspect, however, that laws regarding such rare sexual perversity as homosexuality and bestiality have not arisen from any special need for such sanctions but rather introduced through Islamic influence.²⁴

The table shows that throughout Daghestan (1) the *adats* expressly appoint (696) the nearest male relatives to punish the culprits.

(2) Adultery, fornication, rape, homosexuality—all are capital crimes, punishable with death, but admit of degrees. The most abhorred crimes are incest and rape, followed by adultery, fornication, homosexuality, and finally bestiality. "Incest" must, naturally, be understood in the Lesghian sense. We must not forget that when these *adats* were in force, the Lesghians were endogamists and that at most brother-sister and parent-child marriages were forbidden.

(3) Another remarkable agreement in the *adats* of the various Lesghian peoples is the obligation of killing *both* partners or *none* at all. If only one offender is avenged, the avenger himself becomes a blood-enemy of the relatives of the lover he happens to kill.

husband. In the official report of May 28, 1870 we read: "May 28, a native of Netsi [in Chechnia] of this district, a boy 13 years of age, Nika-Akhma Kurban-ogdy, having caught his mother in an adulterous union with a co-villager, Sulcyman Mahomed-ogdy, stabbed the adulterer, who later died from the wounds received." Cf. "Iz gorskoi kriminalistiki," SSKG, IV (1870), p. 80.

²³ *Supra*, p. 126.

²⁴ Islamic law goes into the smallest details and rarest forms of sexual transgressions.

Akusha, Tsudakhar, Mugn, Nikakhyā, Hyuraki, Usisha, and Sirgua the penalty for homosexual rape is the same as that for murder.³⁰

Bestiality is not punished as severely as other sexual crimes. Generally, the person is merely fined; he is never killed for the act.³⁷

If a maiden or a widow becomes pregnant, she may secretly break into the home of her seducer, give birth to the child, and as a result, he must marry her. This practice, however, is not an *adat* but a practice encouraged by the Šāfi'itic school.³⁸

THE SOUTHERN CAUCASIANS. In ancient Georgia a husband had the right to kill his adulterous wife as well as her lover; a father had the right to kill the accomplice of any of his children.³⁹ In more recent times, the male partner was generally spared by the Pshavs,⁴⁰ Khevsurs,⁴¹ and the Tushi,⁴² otherwise the avenger himself would become a blood-enemy. In Svanetia illicit intercourse was not punished with death if the lovers happened to be of the same village.⁴³ Among the Svans, later on, the avenger of an act of illicit intercourse was obliged to pay half of the usual *tsor* (bloodwite),⁴⁴ and this very sum (besides a refund of the *kalym*) had to be paid to him by the family of his adulterous wife,⁴⁵ so that to become a blood-enemy in such a case did not involve great inconvenience. In Khevsuria, for example, if the life of the adulteress was spared, she would be subjected to indescribable torture. Her cheeks would be slit, her nose, ears or arms would be amputated and hair cut off.⁴⁶ This sort of punishment has not yet completely disappeared, though it has become very rare. Baddeley speaking of his host in Georgia writes: "Our host told us that his own uncle, having served a sentence of imprisonment in Tiflis, came back to find his wife living with another man... He cut off one of her ears, her nose and her right hand; but that was some time ago."⁴⁷ Today the penalty for adultery is not half as severe: generally the wife is divorced and the *kalym* must be refunded to the husband together with half of the usual bloodwite.

³⁰ "Adaty Darginskich Oblčestv," p. 21.

³⁷ Cf. "Adaty Darginskich Oblčestv," pp. 52, 92, 106, 119.

³⁸ Kovalevskij, *Zakon*, II, p. 168.

³⁹ Code of King Vakhtang VI, § 42. Karst ed. p. 92 f.

⁴⁰ Kovalevskij, *Zakon*, II, p. 94.

⁴¹ Kovalevskij, *op. cit.*, II, p. 120.

⁴² *ibid.*

⁴³ Kovalevskij, *Zakon*, II, p. 94: "Pravilo, po ktoromu preljudbodi i soblazniteli podležali krovnoj mesti, terpelo u plavov isključenje v tom slučae, kogda vinovnymi javjalis' odnoselčane — rodstveniki. Mešto ubijstva v etom slučae zanimala prekraklenie vsjakago obličienija i nerédko istreblenie ličnoj sobstvennosti." Just why should illicit intercourse be more severely punished if persons of different villages are in question? It would seem that the Svanian rule of local endogamy lessens the guilt; that is, the intercourse takes place between two possible mates. Moreover, blood-feuds between relatives are, as a general rule, impossible.

⁴⁴ Dirr, AGKB, p. 83.

⁴⁵ *ibid.*

⁴⁶ Makalatija, "Iz starogo narodnogo byta Plavov," SE, 1938, No. 1, p. 109; Baddeley, *op. cit.*, I, p. 237; Dubrovina, *Istorija*, I, ii, p. 312.

⁴⁷ Baddeley, *l. c.*